

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA, STATE
OF CALIFORNIA, STATE OF DELAWARE,
DISTRICT OF COLUMBIA, STATE OF MAINE,
COMMONWEALTH OF MASSACHUSETTS, and
STATE OF NORTH CAROLINA,

Plaintiffs,

v.

LOUIS DEJOY, *in his official capacity as United States
Postmaster General*; ROBERT M. DUNCAN, *in his
official capacity as Chairman of the Postal Service
Board of Governors*; and the UNITED STATES
POSTAL SERVICE,

Defendants.

No. 2:20-cv-4096

**EVIDENTIARY HEARING
REQUESTED**

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs the Commonwealth of Pennsylvania, the State of California, the State of Delaware, the District of Columbia, the State of Maine, the Commonwealth of Massachusetts, and State of North Carolina, file this Motion for a Preliminary Injunction.

As set forth in the contemporaneously filed Memorandum of Law in Support of Plaintiffs' Motion for a Preliminary Injunction, Plaintiffs satisfy the requirements to establish that injunctive relief is warranted. Plaintiffs will show that:

1. Defendants have, first, recently instituted sweeping, nationwide changes to mail transportation, processing, and delivery, and have, second, indicated that they also intend to change the Postal Service's longstanding practice of prioritizing Election Mail ahead of the November 2020 election. Defendants have not sought an advisory opinion from the Postal

Regulatory Commission, or allowed for public input, on either change. Plaintiffs are likely to succeed on the merits of their claim that Defendants have no authority to make either change without first going through the procedural requirements set out in 39 U.S.C. § 3661 and, independently, that Defendants' changes violate the United States Constitution.

2. The changes have resulted in mail delays, which are irreparably harming Plaintiff States and their residents by delaying critical items such as medication, payments, and bills. Plaintiff States use the mail to conduct essential governmental functions, such as sending legal notices, collecting payments, and sending other key correspondence. Plaintiff States have received thousands of complaints from their residents regarding mail service. Plaintiff States also will conduct the 2020 general election with expanded mail-in voting. Defendants' actions undermine voters' confidence in requesting and returning their ballot by mail and risk disenfranchising voters if the delays continue and Election Mail is not prioritized. Plaintiffs will continue to suffer irreparable harm absent an injunction.

3. The balance of equities favors an injunction. While Defendants would suffer minimal disruption in restoring the status quo prior to their July 2020 changes, Plaintiff States will suffer significant and irreparable harm to their sovereign, quasi-sovereign, and proprietary interests.

4. The public interest factors an injunction because the public has significant interest in reliable, timely mail delivery and an efficient, safe, and secure election with as much voter participation as possible.

Because Plaintiff States satisfy the requirements for a preliminary injunction, Plaintiff States respectfully request that this Court enter an Order enjoining Defendants Louis DeJoy, United States Postmaster General, Robert M. Duncan, Chairman of the Postal Service Board of

Governors, the United States Postal Service, and their agents, designees, and subordinates, as well as any person acting in concert or participation with them, from:

a) Enforcing or continuing to enforce the operational and policy changes adopted by Defendants in July 2020;

b) Prohibiting overtime, late trips, or extra trips, in a manner inconsistent with the Postal Service's policies and practice prior to the implementation of the operational and policy changes adopted in July 2020;

c) Departing from the Postal Service's longstanding practice of treating Election Mail with the highest priority, and as First-Class Mail regardless of the purchased class of mail; and

d) Failing to take reasonable steps to ensure that every piece of Election Mail receives a postmark the day it is received by the Postal Service.

Plaintiff States also respectfully request that this Court enter an Order requiring Defendants Louis DeJoy, United States Postmaster General, Robert M. Duncan, Chairman of the Postal Service Board of Governors, the United States Postal Service, and their agents, designees, and subordinates, as well as any person acting in concert or participation with them, to:

a) Inform all Postal Service employees that all mail should be processed, handled, transported, and delivered, in accordance with service and operational standards in place before July 2020; and

b) Deploy processes and procedures that ensure Election Mail is prioritized, and delivered, at a minimum, as if it was First-Class Mail, irrespective of the class of mail actually purchased, and, in the case of completed ballots being returned to an election official,

irrespective of whether it bears adequate postage, consistent with the Postal Services past practices.

This Motion is supported by the contemporaneously filed Memorandum of Law, the accompanying declarations and exhibits, Plaintiff States' Complaint, and any additional submissions that may be considered by the Court.

September 2, 2020

Respectfully submitted,

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**Appearing pro hac vice (applications
forthcoming or pending)*

***Appearing pro hac vice*

**** Application for admission forthcoming*

CERTIFICATE OF SERVICE

Pursuant to Local Rule 5.1.2(8)(b), I hereby certify that the foregoing has been filed electronically and is available for viewing and downloading from the ECF system by all parties.

s/ Aimee D. Thomson
AIMEE D. THOMSON